

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(Crl.).No. 315 of 2015 (S)

PETITIONER(S) :

1. AJI, AGED 43 YEARS,
S/O. VIDYADHARAN, MUKALUVILA VEEDU(AJI BHAVAN),
PALLIMON P.O., KANNANALLORE, KOLLAM- 691 576.
2. ANAMIKA, aged 10 years,
D/O. AJI, MUKALUVILA VEEDU(AJI BHAVAN),
PALLIMON P.O., KANNANALLORE, KOLLAM- 691 576.
3. ANAKHA, aged 5 years,
D/O. AJI, MUKALUVILA VEEDU(AJI BHAVAN),
PALLIMON P.O., KANNANALLORE, KOLLAM- 691 576.

BY ADVS.SRI.V.JAYAPRADEEP
SRI.V.JAYADHAR

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF HOME AFFAIRS, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE SUB INSPECTOR OF POLICE,
KOTTIYAM - 691 601.
3. NISHANT,aged about 30 years,
S/O. RETNAKARAN, NN NIVAS, MUKKOD P.O.,
MULAVANA, KOLLAM - 691 001.
4. THE COMMISSIONER OF POLICE, KOLLAM - 691 001.

R1, R2 & R4 BY SRI.TOM JOSE PADINJAREKKARA,
ADDL.DIRECTOR GENERAL OF PROSECUTION,
R3 BY ADV.SRI.PRATHEESH.P
GOVERNMENT PLEADER SRI.SHIBU JOSEPH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Cr1.) .No. 315 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

:

EXHIBIT-P1-TRUE COPY OF THE MARRIAGE CERTIFICATE

EXHIBIT-P2-TRUE COPY OF THE FIR DATED 30/03/2015 OF KUNDARA P.S.

EXHIBIT-P3-TRUE COPY OF THE FIR DATED 11/12/2014 OF KUNDARA PS

EXHIBIT-P4-TRUE COPY OF THE INTERIM ORDER DATED 28/05/2015 OF THIS
HONOURABLE COURT.

EXHIBIT-P5-TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED
25/08/2014.

EXHIBIT-P6-TRUE COPY OF THE COMPLAINT DATED 11/07/2015 TO R2

EXHIBIT-P7-TRUE COPY OF THE COMPLAINT DATED 13/07/2015 TO R4.

RESPONDENT(S) ' EXHIBITS

:

//True Copy//

P.A. to Judge

SS

C.K. ABDUL REHIM &

K. RAMAKRISHNAN, JJ.

W.P.(Crl.) No.315 of 2015

Dated this the 21st day of July, 2015

JUDGMENT

C.K. Abdul Rehim, J

The 1st petitioner is the husband of the alleged detenue Smt.Nisha Rani and petitioners 2 and 3 are minor children, born out of their wedlock. This writ petition is filed seeking a writ of Habeas Corpus for directing production of the alleged detenue and to set her at liberty, based on an allegation that she was taken into custody by the 3rd respondent on 11.07.2015 and is being illegally detained.

2. In the writ petition it is mentioned that the 3rd respondent is keeping enmity with the 1st petitioner and is continuously harassing the petitioner's in connection with disputes related to a business activity conducted by the 1st

petitioner, with its license in the name of the alleged detinue, in a landed property in the compound of the ancestral house of the alleged detinue. It is pointed out that, Exts.P2 and P3 criminal cases were registered with respect to certain incidents occurred in connection with such disputes. It is mentioned that, with respect to abduction of the alleged detinue by the 3rd respondent, the petitioner had lodged complaints before respondents 2 and 4, as evidenced from Exts.P6 and P7. But those respondents have failed to take any appropriate action. Hence this writ petition is filed.

3. Based on notice issued from this court, the 3rd respondent entered appearance through counsel. It is submitted that the alleged detinue had left her marital house on 07.06.2015 due to the severe cruelty and torturing met out by her from the side of the 1st petitioner. She came back to the parental house and lodged a complaint before the Kundara police station on 10.06.2015, raising allegations of cruelty and torturing against the 1st

petitioner. It is stated that she had also filed two cases before the Family Court, Kollam, seeking custody of the minor children (petitioners 2 and 3) and for return of gold and money. According to the 3rd respondent in both those cases instituted on 02.07.2015, as O.P.Nos.725/2015 and 726/2015, the Family Court had ordered notice and the 1st petitioner had already received notices from the Family Court on 05.07.2015. Learned counsel for the 3rd respondent submitted that it is suppressing all the above material aspects, this writ petition is filed, raising totally frivolous and untrue allegations.

4. The 3rd respondent had produced the alleged detinue before this court. We interacted with the alleged detinue. She said that she had left the marital house only due to the intolerable cruelty and torturing inflicted by the 1st petitioner. She had confirmed about the police complaint as well as about filing of the cases before the Family Court, as mentioned above.

5. Under the above mentioned circumstances,

we are convinced that this writ petition is filed based on totally frivolous allegations regarding the illegal confinement. It is pertinent to note that the petitioner herein had suppressed the fact regarding receipt of notices from the Family Court in the cases instituted by the alleged detainee.

6. However, since it is evident that the alleged detainee is staying in her parental house along with her family members on her own free wish and will, there is absolutely no material to find any illegal confinement.

Therefore, the writ petition is hereby dismissed and the alleged detainee is set at liberty to go along with her parents and the 3rd respondent.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

// True Copy //

P.A. to Judge